

1 ROBERT DAVID BAKER, INC.
2 Robert David Baker, Esq. (87314)
3 1611 The Alameda
4 San Jose, CA 95126
5 Facsimile: (408) 292-0703
6 (408) 292-8555

7 Attorney for Plaintiff
8 TAMARA ZELTSER

9 IN THE UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11

12 TAMARA ZELTSER,

Case No. C 06 -146 JF

13 Plaintiff,

EX PARTE MOTION AND STIPULATION
FOR EXTENSION OF TIME TO MEDIATE

14 vs.

15 SELECT COMFORT RETAIL
16 CORPORATION,

17 Defendants,
18
19 _____ /
20
21
22
23
24
25

26 TO: HONORABLE JEREMY FOGEL AND COUNSEL FOR DEFENDANTS SELECT
27 COMFORT RETAIL CORPORATION:

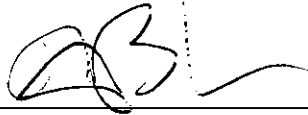
28 Tamara Zeltser, Plaintiff, through her attorney of record hereby moves this court for an
29 ex parte order allowing an extension of time to mediate this matter.

30 Good cause for this ex parte motion exists based upon the following declaration of Robert
31 David Baker.

32 This application is based upon this application, the attached points and authorities, the
33 attached declaration of Robert David Baker, and on all documents and records on file in the
34 above-entitled matter.
35

1 Respectfully submitted,

Dated: August 28, 2006

2
3 

4 Robert David Baker, Esq.
5 Attorney for Plaintiff
6

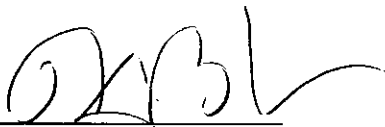
7 **MEMORANDUM OF POINTS AND AUTHORITIES**

8 Local Rule 7-11 provides that a party may submit an ex parte application for immediate
9 determination by the assigned Judge.

10 All counsel and the mediator have agreed to extend the time to mediate the above-entitled
11 matter, so that the mediation may be held on September 13, 2006, beginning at 9:30 a.m.
12

13 Respectfully submitted,

Dated: August 28, 2006

14 

15 Robert David Baker, Esq.
16 Attorney for Plaintiff
17

18 **DECLARATION OF ROBERT DAVID BAKER**
19 **IN SUPPORT OF EX PARTE MOTION**

20 I, Robert David Baker, declare:

- 21 1. I am an attorney duly licensed to practice in the Courts of the State of California and
22 the United States District Court for the Northern District of California;
- 23 2. My address is 1611 The Alameda, San Jose, California;
- 24 3. I am the attorney for Plaintiff in the above entitled matter;
- 25 4. The complaint in this matter alleges overtime and other violations under the FLSA
and California State Labor Law;

1 5. The Complaint in this matter was filed on January 10, 2006;

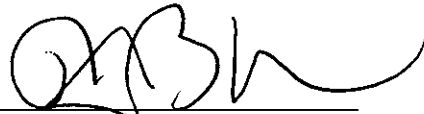
2 6. The parties have stipulated to mediation of this matter. John E. F. DiNapoli has been
3 assigned as mediator. A mediation date was set for August 9, 2006;

4 7. On July 18, 2006, I was retained to represent Defendant in the punitive damage phase
5 of Sheikhai v. Mirzaei, Alameda County Case Number 2002-052987. The trial of punitive
6 damage phase was set for August 8, 2006;

7 8. I communicated this conflict to all counsel and the mediator. All counsel and the
8 mediator, John DiNapoli, have agreed that the mediation will be continued to September 13,
9 2006;

10 9. Therefore, request is made of this court to extend the time to mediate this matter to
11 September 13, 2006.

12 I declare under penalty of perjury the foregoing is true and correct and that this
13 declaration is executed on August 28, 2006, at San Jose California.

14 

15 Robert David Baker, Esq.

16 **STIPULATION**

17 It is so stipulated.

18 Dated: August 28, 2006

19 _____
Brian T. McMillan, Esq.

20
21 Dated: August 28, 2006

22 _____
John DiNapoli, Esq.

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John DiNapoli, Esq.

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18 Dated: August 28, 2006

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20 Brian T. McMillan, Esq.

21 Dated: August 28, 2006

22 _____
23 John DiNapoli, Esq. 
24
25

ORDER

Based upon the Ex Parte Application of Plaintiff Tamara Zeltser, through her attorney of record Robert David Baker,

AND FOR GOOD CAUSE APPEARING, IT IS SO ORDERED that the time to mediate the above-entitled matter shall be extended to September 13, 2006.

Case Management Conference is continued until 9/22/06 at 10:30.

Dated: August 31, 2006



Honorable Jeremy Fogel
Judge, United States District Court